
	<b>LOS LUNAS POLICE DEPARTMENT</b>		
	PERSONNEL	NUMBER: PER.09.01	EFFECTIVE DATE: July 23, 2010
	SUBJECT: Disciplinary System		REVIEW DATE: August 23, 2010
	AMENDS/ SUPERSEDES:		NMSA:
NMMLEPSC STANDARDS: PER.09.01 - PER.09.05		APPROVED BY CHIEF OF POLICE NAITHAN G. GURULE  Signature	

## I. STATEMENT OF PURPOSE

It is the policy of the Los Lunas Police Department to foster a program of discipline which defines the word "discipline" as "training or development through instruction," in order to provide a framework for the fair and consistent administration of discipline. This will enable the department to retain its discretionary authority for the "individualized" imposition of disciplinary action while ensuring a systematic and consistent administration of discipline to all personnel of the Los Lunas Police Department.

## II. OBSERVATION OF DEPARTMENT RULES

The Los Lunas Police Department maintains a set of rules to encourage professional standards. Knowledge of the rules is imperative to produce an ethic in which all personnel of the department follow a code of conduct. All personnel shall observe rules, regulations, policies and procedures which have been set forth in the both the Village of Los Lunas Personnel Manual and the Department Rules and Regulations. The fair and impartial enforcement of the rules shall serve as a cornerstone for a professional police department.

The disciplinary and grievance systems are designed to provide fairness in resolving personnel problems. Personnel shall familiarize themselves with the procedures as outlined in the Village of Los Lunas Personnel Manual and the Department Rules and Regulations.

## III. RESPONSIBILITY

A. Support of the disciplinary system is a responsibility shared by

all department personnel.

- B. Supervisor(s) are responsible to motivate, counsel, and train individuals toward self-discipline. Supervisors are charged with the responsibility of initiating corrective action when violations are committed.
- C. Failure of a supervisor to immediately initiate corrective and/or disciplinary action against an employee for a violation of the rules and regulations shall constitute dereliction of duty on the part of that supervisor.
- D. Sergeants/Supervisors have the authority to initiate disciplinary action on employees through the chain of command. All requests for disciplinary action must be made in writing with all documentation attached.
- E. Sergeants/Supervisors have the authority to relieve an employee from duty status pending review through the chain of command.
- F. Sergeants/Supervisors shall request the type of disciplinary action written reprimand, suspension, demotion, or termination

#### **IV. SPECIAL PROCEDURES**

- A. The Chief of Police may circumvent all formal disciplinary procedures to render an immediate decision when he deems it necessary to preserve the integrity of the Department.

#### **V. PROBATIONARY EMPLOYEES ARE AT-WILL EMPLOYEES**

- A. Employees who have not completed their probationary period have no right of appeal through the Village Grievance Procedure.
- B. All new employees shall serve a probationary period of twelve months commencing with the first day of employment.
- C. In addition any employee who is promoted, demoted or otherwise transferred from one position to another position shall be on probation for a period of twelve months.

#### **VI. PERFORMANCE COUNSELING FOR LESS SERIOUS INFRACTIONS OF RULES**

- A. Performance Counseling provides immediate disciplinary action against employees who fail to conform to certain departmental standards of conduct and appearance. This procedure does not require a subsequent investigation. Performance Counseling may be imposed within the employee's chain of command by an oral reprimand or performance counseling.
  - 1. Oral reprimands will be documented by the supervisor.
  - 2. A copy of performance counseling will be sent to the employee's Division Commander.
  - 3. Supervisors will continuously monitor and document officers performance, both positive and negative utilizing a log book.
- B. Action under this section will not bar a recommendation for a more severe penalty by higher authority when it is felt that performance counseling is being used to cover a transgression warranting a more severe penalty.

## **VII. LETTERS OF REPRIMAND**

- A. When the recommended disciplinary action is a written reprimand, the employee's immediate Supervisor will prepare a request and send it up the chain of command to the Division Commander. The Division Commander will have the opportunity to write the letter or reprimand or refer it back to the Supervisor for informal review. If a letter of reprimand is written it will be addressed to the employee and contain the following information:
  - 1. A brief description of the incident involving the employee.
  - 2. The specific rules violated.
- B. Written reprimands issued to sworn personnel will close with the following statement:

A COPY OF THIS REPRIMAND WILL BE PLACED IN YOUR PERSONNEL FILE. ANY FUTURE VIOLATION BY YOU OF THE CITY PERSONNEL RULES, OR DEPARTMENTAL RULES OR REGULATIONS ISSUED BY THE CHIEF OF POLICE WILL RESULT IN THE APPROPRIATE PENALTY FOR SUCH VIOLATION AND MAY RESULT IN MORE SEVERE DISCIPLINARY ACTION. A LETTER OF REPRIMAND IS NOT GRIEVABLE UNLESS PAY OR BENEFITS ARE AFFECTED.

- C. Upon receiving a written reprimand, the employee will acknowledge receipt by signing the document. The original of the letter will be given to the employee and a copy will be put in the officer's personnel file.

#### **VIII. ADMINISTRATION LEAVE WITH PAY**

- A. Pending an investigation of employee misconduct, including a predetermination hearing, if it is determined by the Chief of Police or his designee, that it would be in the best interest of the Village for the employee not to perform his regular duties, the employee may be placed on leave of absence with pay.

#### **IX. SUSPENSIONS**

- A. If the situation warrants and for cause, the Chief of Police, in consultation with the Village Administrator, may suspend without pay, measures normally considered coequal.
  - 1. Suspensions without pay will normally apply to a period as determined by the Chief of Police or by existing Village Policies which may apply.
  - 2. If an employee shall become a candidate for suspension a second time within one year after the first suspension, the employee may be dismissed.
  - 3. Suspensions resulting from criminal investigations may be prolonged pending court action.
    - a. In no case shall an employee convicted of a felony continue to work for the Los Lunas Police Department.
    - b. If an employee is acquitted of criminal charges, the employee may yet be disciplined at the discretion of the Chief of Police or reinstated with full or partial back pay.
  - 4. Any member suspended for a period five days or longer shall return all department-owned property to the Chief of Police through the Division Commander. On any suspension, the officer must return to the Chief his or her

badge, identification card, and issued firearm.

5. During a suspension, the employee shall not undertake any official duties.
6. Demotion shall be to the next lowest rank or the rank held previous to promotion.
7. An employee may protest a suspension as prescribed by the Village of Los Lunas Employee Policy. An employee may appeal a suspension as per the existing appeal process which will be made available upon such action. The Village of Los Lunas will conduct a hearing and the resulting decision will be final.
8. The Village Administrator may reinstate a suspended employee at any time, with back pay, benefits, and original rank or position.

#### **X. REDUCTION IN RANK**

- A. If the situation warrants and for cause, the Chief of Police, in consultation with the Village Administrator, may demote an employee, measures normally considered coequal.
- B. Reduction in rank may be used with other disciplinary action.

#### **XI. TERMINATION**

- A. Dismissals are made in cases of extreme misfeasance, malfeasance, or nonfeasance of duty. A complete record of the circumstances of the misbehavior shall be made by all persons having knowledge of the misbehavior.
  1. Employees may protest or appeal a dismissal within the time prescribed by Village Policy.
  2. Whenever dismissal or suspension is contemplated, the department shall provide notice to the employee as well as written directions with regard to the appeals process.
  3. At the time of the employees termination and prior to the final payment of wages the employee shall return all records,

uniforms, badges, identification cards, keys and all other police department property in the employees custody. The final paycheck will be withheld until return of all property.

## **XII. REPORTING ARRESTS**

- A. Any employee arrested for, charged with, or convicted of any crime, or required to appear as a defendant in any criminal or civil proceedings, must so inform the Chief of Police in writing as soon as possible. Employees do not have to report parking tickets or minor traffic offenses. Employees must report citations or arrests for reckless driving, DUI, second or more violations for speeding, or any other traffic offenses with penalties over \$100.00. Failure to notify the department of the foregoing shall be cause for punishment.

## **XIII. APPEAL**

- A. Employees who have completed their probation period have a right to appeal:
  - 1. Upon receipt of written notification from the Chief of Police for a definite suspension, reduction in rank, and/or termination an employee will have a right to appeal in accordance with the Village Grievance Procedure.

## **XIV. MAINTENANCE OF RECORDS OF DISCIPLINARY ACTION**

- A. All formal disciplinary actions must be in written form.
- B. The record of disciplinary action shall reflect where the record will be filed. Personnel file Supervisor's file
- C. All written disciplinary actions will require a statement stating the length of time that the record will remain on file.

## **XV. INFRACTIONS AND PUNISHMENTS**

- A. Except for gross breaches of discipline, supervisors shall attempt to begin employee discipline with the least punitive measures. If these do not work, then increasingly more severe measures may be required. While this process may take some time, it is important that each employee be dealt with justly, and in a manner which clearly indicates that positive, constructive measures to change behavior or performance preceded the imposition of more negative sanctions.

B. Employees are reminded that all appeals are governed by law, as specified under the Law Enforcement Officers' "Bill of Rights" and "Garrity."

C. Unacceptable conduct is divided into three categories according to severity of misbehavior.

1. Category I.

Examples:

- a. Excessive absences, tardiness.
- b. Abuse of duty time (too much time away from established duties; too much time for personal business).
- c. Abusive or obscene language.
- d. Inadequate or unsatisfactory job performance.
- e. Disruptive behavior.

Category I offenses are of minor severity yet require correction in the interest of maintaining a productive and well managed department.

Category I offenses normally result, in the first offense, in informal measures such as counseling, or perhaps by oral reprimand/formal counseling. Two Category I offenses in one year results in a written reprimand or suspension of up to five days. A third instance in one year shall provide grounds for longer suspension or dismissal.

2. Category II.

Examples:

- a. Failure to follow supervisor's instructions, perform assigned work, or otherwise comply with policy.
- b. Violating safety rules without a threat to life.
- c. Unauthorized time away from work assignments

without permission during duty hours.

- d. Failure to report to work without proper notice to a supervisor.
- e. Unauthorized use or misuse of department property.
- f. Refusal to work overtime.

Category II offenses include more severe acts and misbehavior. Category II offenses normally result, in the first instance, an issuance of a written reprimand. A subsequent infraction within two years shall result in suspension of up to ten days or demotion or dismissal.

3. Category III.

Examples:

- a. Absence in excess of three days without notice to a superior.
- b. Use of alcohol or unlawful possession or use of a controlled substance while on duty.
- c. Reporting to work under the influence or when ability is impaired by alcohol or the unlawful use of controlled substances.
- d. Insubordination or serious breach of discipline.
- e. Falsification of any reports such as, but not limited to, vouchers, official reports, time records, leave records, or knowingly making any false official statement.
- f. Willfully or negligently damaging or destroying city property.
- g. Theft or unauthorized removal of departmental records or city or employee property.
- h. Gambling on any Property of the Village of Los Lunas.
- i. Acts of physical violence or fighting (except official



police actions).

- j. Violating safety rules where there is a threat to life.
- k. Sleeping on duty.
- l. Participating in any kind of work slowdown or sit down or any other concerted interference with police department operations.
- m. Unauthorized possession or use of firearms, dangerous weapons, or explosives.
- n. Threatening or coercing employees or supervisors.
- o. Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance and consequently to continue the employee in the assigned position would constitute negligence regarding the agency's duties to the public.
- p. Failure to take physical or mental examinations as required. The Chief of Police may require mental or physical examinations of a member or employee by a designated psychiatrist, psychologist, or physician when, in the Chief's estimation, it is in the best interest of the member, employee, or the department.
- q. Using public office for private gain.
- r. Engaging in criminal conduct on or off the job.
- s. Engaging in dishonest or immoral conduct that undermines the effectiveness of the agency's activities or employee performance, whether on or off the job.
- t. Willful disobedience of a lawful command of a supervisor.
- u. Disclosure of confidential information to any person except those who may be entitled to such information.

- v. Taking any action, which will impair the efficiency or reputation of the department, its members, or employees.
- w. Acceptance of any bribe, gift, token, money, or other things of value intended as an inducement to perform or refrain from performing any official act, or any action of extortion or other means of obtaining money or anything of value through his position.
- x. Manifesting cowardice, feigning illness, or otherwise attempting to shirk official duty.
- y. Involvement in any compromise between persons accused of crime and the person or persons who may have suffered from criminal acts with the purpose of allowing the accused to escape punishment.
- z. Failure to answer questions specifically directed and related to official duties or job fitness. (Unless criminal prosecution is contemplated.)
  - aa. The use of unnecessary force during an arrest/custody procedure.
  - bb. Deviation from established procedures in the disposition of summons or arrest cases.

Category III offenses include acts of such severity as to merit suspension or dismissal at a single occurrence. Category III offenses may be punished by suspension for as determined by the Chief of Police with approval of the Village Administer or dismissal.

D. Probationary Employees

Probationary employees shall be dismissed, suspended, or otherwise disciplined according to the foregoing. The only difference is that a probationary employee has no right of appeal.

- 1. In the case of a dismissed probationary employee, the official record will merely indicate that the person was dismissed during probationary employment.

E. Sexual Harassment and Other Discrimination

Employees found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, handicap, age, or sex (including sexual harassment) may be counseled or disciplined with either a Category I, II, or III Offense, depending upon the specific facts and circumstances surrounding the incident.

1. Sexual harassment

F. Discipline Checklist

The following checklist, from the Management Kit of the American Management Association, should be used by supervisors to help analyze the employee misbehavior and offer correction.

1. Have I secured the necessary facts?

- a. Did the employee have an opportunity to tell fully his side of the story?
- b. Did I check with the employee's immediate supervisor?
- c. Did I investigate all other sources of information?
- d. Did I hold my interview privately in order to avoid embarrassing the interested employee or employees?
- e. Did I exert every possible effort to verify the information?
- f. Did I check the employee's personnel folder to look at his past record?

2. Have I considered all the facts in deciding upon the disciplinary measure?

- a. Have I found out what has been done in similar cases in my department?

- b. Have I found out what has been done in similar cases in other departments?
  - c. Have I shown any discrimination toward an individual or group?
  - d. Have I let personalities affect my decision?
  - e. Does the measure fit the violation?
  - f. Will the measure prevent a recurrence?
  - g. Will the measure maintain morale?
  - h. Will the measure encourage the employee's initiative?
  - i. Will the measure create a desire on the part of the employee to do what is right?
  - j. Have I checked this decision with my immediate supervisor?
  - k. Did I follow current Village Policy?
3. Have I administered the corrective measure in the proper manner?
- a. Did I consider whether it should be done individually or collectively?
  - b. Am I prepared to explain to the employee why the action is necessary?
    - (1) The effect of the violation on the department, fellow employees, and himself.
    - (2) To help him/her improve his efficiency and also that of the department.
  - c. Am I prepared to tell him/her how he/she can prevent a similar offense in the future?
  - d. Am I prepared to deal with any resentment he/she might show?

- e. Have I filled out a personnel folder memo to be signed by the employee?
- 4. Have I made the necessary follow-up?
  - a. Has the measure had the desired effect on the employee?
  - b. Have I done everything possible to overcome any resentment?
  - c. Is the employee convinced that the action was for his best interest?
  - d. Have I endeavored to compliment him/her on his/her good work?
  - e. Has the action had the desired effects on other employees in the department?